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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NEFTALI MONTERROSA, individually and as co-successor-in-interest to Decedent SEAN MONTERROSA; NORA MONTERROSA, individually and as co-successor-in-interest to Decedent SEAN MONTERROSA; MICHELLE MONTERROSA, individually; ASHLEY MONTERROSA, individually,

Plaintiffs,

v.

CITY OF VALLEJO, a municipal corporation; JARRETT TONN, individually, and Vallejo police officers DOES 1-25, inclusive,

Defendants.

Case No. 2:20-cv-01563-TLN-DB

**DECLARATION OF BEN NISENBAUM
IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION FOR PROTECTIVE ORDER,
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
CHANGE OF VENUE, AND
PLAINTIFFS' MOTION FOR
SANCTIONS**

I, Ben Nisenbaum declare:

1. I am over 18 years old and I am an attorney, who is licensed to practice law in California and before this Court. I represent the named Plaintiffs in the above-referenced action.
2. The facts set forth in this declaration are personally known to me. If called as a witness, I could and would competently testify as follows:

3. On June 2, 2020, Vallejo Police Department held a press conference. KPIX CBS San
1 Francisco Bay Area News posted a recording of that press conference on YouTube at
2 the following link: <https://www.youtube.com/watch?v=IJLMmxMh11s>. A true and
3 correct copy of that recording is attached hereto as Exhibit 1.
4. Vallejo Police Officers Association (VPOA) posted a press release on June 5, 2020 at
5 <https://www.vallejopoa.org/news/vallejo-police-officers-association-responds-to-officer-involved-shooting/?id=d5941704-f982-4efc-91b3-f31ad3dd7db3> A true and
6 correct copy of the press release is attached hereto as Exhibit 2.
7. Defendant CITY posted a press release on July 8, 2020 at
8 <http://www.ci.vallejo.ca.us/common/pages/DisplayFile.aspx?itemId=16872323>. A true
9 and correct copy of the press release is attached hereto as Exhibit 3.
10. On July 8, 2020, Vallejo Police Department held a press conference. KTVU News
11 posted a recording of that press conference on YouTube at the following link:
12 <https://www.youtube.com/watch?v=tNTs5-A2yS4&t=129s>. A true and correct copy of
13 that recording is attached hereto as Exhibit 4.
14. On July 8, 2020, released a video to the press containing body cam footage of the
15 incident. KPIX CBS San Francisco Bay Area News posted a recording of that press
16 conference on YouTube at the following link:
17 <https://www.youtube.com/watch?v=oytdWFMoBbE>. A true and correct copy of that
18 video is attached hereto as Exhibit 5.
19. On June 5, 2020, Counsel for Plaintiffs, Melissa Nold, sent a request to preserve
20 evidence to Defendants. A true and correct copy of the request is attached hereto as
21 Exhibit 6.

1 9. On October 27, 2020, Counsel for Plaintiffs, Ben Nisenbaum, sent an email to meet and
2 confer with Defendants' counsel. A true and correct copy of the meet and confer email
3 thread is attached hereto as Exhibit 7.

4 10. On June 5, 2020, Bay Area News Group posted an article naming Officer Tonn at:
5 [https://www.mercurynews.com/2020/06/05/exclusive-vallejo-officer-who-killed-sf-
6 man-had-three-prior-shootings-as-a-policeman/](https://www.mercurynews.com/2020/06/05/exclusive-vallejo-officer-who-killed-sf-man-had-three-prior-shootings-as-a-policeman/). A true and correct copy of the article is
7 attached hereto as Exhibit 8.

8 11. On November 16, 2020, The New Yorker poster an article regarding the incident at:
9 [https://www.newyorker.com/magazine/2020/11/23/how-a-deadly-police-force-ruled-a-
11 city](https://www.newyorker.com/magazine/2020/11/23/how-a-deadly-police-force-ruled-a-
10 city). A true and correct copy of the article is attached hereto as Exhibit 9.

12 12. Declaration of Benjamin Nisenbaum in Support of Plaintiffs' Motion for Attorneys'
13 Fees, dated November 6, 2020 in *Tindle v. Mateu*, USDC N.D.Ca. 18-cv-05755 YGR. A
14 true and correct copy is attached hereto as Exhibit 10.

15 13. Declaration of Ayana Curry in Support of Plaintiffs' Motion for Award of Reasonable
16 Attorneys' Fees and Costs, dated November 4, 2020 in *Tindle v. Mateu*, USDC N.D.Ca.
17 18-cv-05755 YGR. A true and correct copy is attached hereto as Exhibit 11.

18 14. Billing for Ayana Curry re the Opposition to Motion for Change of Venue and Plaintiffs'
19 Motion for Sanctions. A true and correct copy is attached hereto as Exhibit 12.

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21 I declare under penalty of perjury under the laws of the United States that the foregoing is
22 true and correct, and that this declaration was executed this 19th day of November 2020 at
23 Oakland, California.

24
25 /s/ Benjamin Nisenbaum
26 Benjamin Nisenbaum
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